

THE UNITED STATES DISTRICT COURT,  
THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

VERA L. JENKINS,

Plaintiff,

v.

KIMBERLY A. ADDIS, M.D.,

Defendant.

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**CIVIL NO. 3:18-cv-321**

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**NOTICE OF REMOVAL**

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**TO THE HONORABLE UNITED STATES DISTRICT JUDGE:**

COMES NOW Defendant Kimberly A. Addis, M.D. (hereinafter, “Defendant”) and files this, her Notice of Removal pursuant to 28 U.S.C. § 1446(a) and in support thereof would show this Honorable Court as follows:

**I. INTRODUCTION**

Plaintiff Vera L. Jenkins filed her Original Petition in the 384<sup>th</sup> District Court on or about September 21, 2018, naming Kimberly A. Addis, M.D. as the sole defendant. The State Court Action is captioned *Vera L. Jenkins v. Kimberly A. Addis, M.D., Cause No. 2018DCV3468*.

The Original Petition purports to assert a health care liability claim against Defendant, an interventional radiologist, in connection with the implantation of an inferior vena cava filter (IVCF) medical device in December of 2016. Specifically, Plaintiff alleges that Defendant failed to assess, select and implant the proper medical device to treat Plaintiff’s condition; failed to determine if Plaintiff was an appropriate candidate for an IVCF, in general, and the Denali IVCF in particular; failed to obtain adequate and proper informed consent for implantation of the Denali

IVCF; selected the Denali IVCF despite the lack of efficacy and high failure, injury, and complication rates associated with the device; failed to monitor Plaintiff after implantation of the Denali IVCF; failed to develop a proper care plan for monitoring and assessing Plaintiff's continued need for the filter after implant and whether it could be safely retrieved; and failed to implement a proper care plan for monitoring and assessing Plaintiff's continued need for the filter after implant and whether it could be safely retrieved. *See Exhibit A, Original Petition*, ¶ 13.

Plaintiff alleges the following injuries and damages: past and future physical pain and mental anguish; past and future disfigurement; past and future physical impairment; and past and future medical care expenses. *See Exhibit A, Original Petition*, ¶ 15. The relief Plaintiff seeks includes "monetary relief in excess of \$1,000,000.00 and judgment for all other relief to which he [sic] is deemed justly entitled." *See Exhibit A, Original Petition*, ¶ 6.

## **II. BASIS FOR REMOVAL**

Removal is proper under 28 U.S.C. § 1332(a) because there is complete diversity of citizenship between Plaintiff and Defendant and the amount in controversy is more than \$75,000.00, exclusive of interests and costs. Plaintiff alleges that she is a resident of Deming, New Mexico. *See Exhibit A, Original Petition*, ¶ 2. Defendant is a resident of San Antonio, Texas. *See Exhibit A, Original Petition*, ¶ 3. Thus, the jurisdictional threshold under 28 U.S.C. § 1332(a) is satisfied.

## **III. ALL PROCEDURAL REQUIREMENTS FOR REMOVAL HAVE BEEN SATISFIED**

Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of all the process, pleadings, orders, and documents from the State Court Action which have been served upon Defendant are being filed with this Notice of Removal. *See Exhibit A, Citation and Original Petition*.

Defendant received notice of the State Court Action on October 6, 2018, when she was served with the Citation and Original Petition. *See Exhibit A, Citation and Original Petition; see Exhibit B, State Court Docket Sheet.* This Notice of Removal has been filed within 30 days of the date that Defendant was served with the Citation or Original Petition in this matter. *See Exhibit A, Citation and Original Petition; see Exhibit B, State Court Docket Sheet.* Removal is therefore timely in accordance with 28 U.S.C. § 1446(b). Defendant will promptly file a copy of this Notice of Removal with the clerk of the state court where the State Court Action was originally filed.

Venue is proper in this Court pursuant to 28 U.S.C. § 1441(a) and 1446(a) because the U.S. District Court for the Western District of Texas, El Paso Division, is the “district and division embracing the place where such action is pending.” *See* 28 U.S.C. § 1441(a); *See Exhibit A, Citation and Original Petition; see Exhibit B, State Court Docket Sheet.*

#### **IV. JURY DEMAND**

Plaintiff demanded a jury in the State Court Action and paid the appropriate fee. *See Exhibit A, Original Petition, ¶ 18.*

#### **V. CONCLUSION**

By this Notice of Removal, Defendant does not waive any objections it may have as to service, jurisdiction or venue, or any other defenses or objections it may have to this action. Defendant intends no admission of fact, law, or liability by this Notice of Removal, and expressly reserves all defenses, motions, and/or pleas.

WHEREFORE, Defendant Kimberly A. Addis, M.D. gives notice that the matter styled as *Vera L. Jenkins v. Kimberly A. Addis, M.D., Cause No. 2018DCV3468*, is removed to the United States District Court for the Western District of Texas, El Paso Division, for all further proceedings.

Respectfully submitted,

/s/ Julie A. Mederos

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**ATTORNEYS FOR DEFENDANT**

**KIMBERLY A. ADDIS, M.D.**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 26<sup>th</sup> day of October, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to each counsel of record listed below. To the extent any such counsel is not yet registered for such electronic delivery, the foregoing document will be served in accordance with the Federal Rules of Civil Procedure.

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